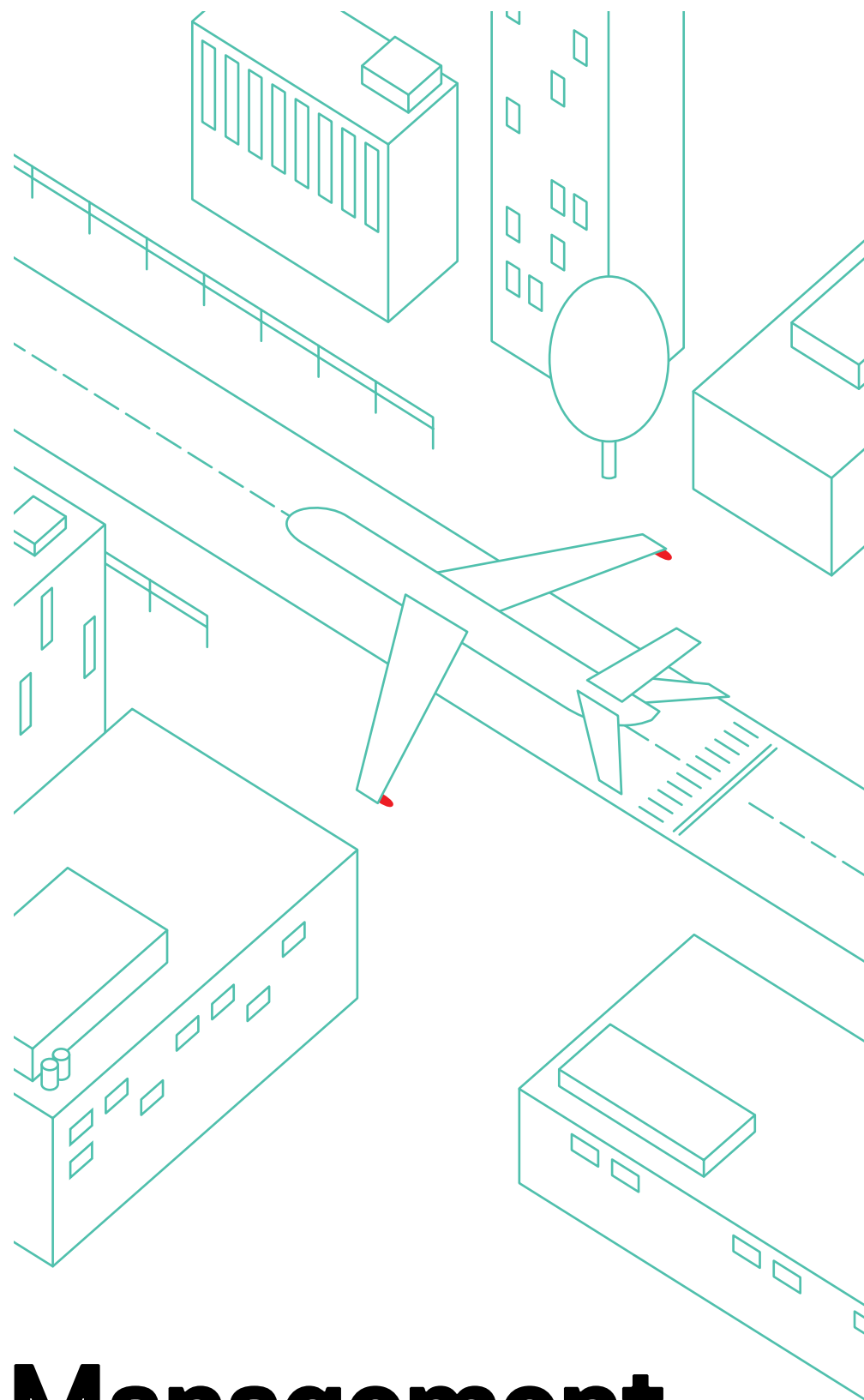


# NATIONAL MEDIATION BOARD

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## CHIEF OF STAFF LETTER

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**NOVEMBER 14, 2012**

During Fiscal Year 2012, the National Mediation Board entered its 78th year as the agency responsible for promoting harmonious relationships among management and labor organizations in the airline and railroad industries in America. That task remains as challenging as ever, but there were a number of very positive developments during FY 2012 that mark our progress as an agency.

The Office of Mediation and ADR Services leadership and staff have continued to pursue innovative approaches to mediation and facilitation with the parties, and they have navigated potentially stormy weather—PEB's, mergers, and bankruptcies—with skill and aplomb.

The Office of Arbitration Services has implemented a number of new accounting and work flow processes that address Government Accounting Office best practices, and place Section 3 on its most sound business footing ever in the history of the NMB. Full implementation of the online Arbitrator Workspace has allowed for accurate tracking of cases and increased efficiency. The "cases pending" figure in Arbitration for the end of FY 2012 is a fraction of the same figure just a few years ago and a new low in the history of the NMB.

In FY 2012, the NMB was able to solidify partnerships with two institutions of higher education—Cornell's Industrial and Labor Relations School, and Dominican University's Graduate Program in Dispute Resolution. Agreements with both institutions give NMB staff access to superior education and training opportunities at little or no cost to the agency, enhancing the capability of the NMB to help educate future labor relations specialists and dispute resolvers.

As FY 2012 came to a close, the NMB was on the verge of moving its information and communication technology completely into the cloud, with a considerable cost savings for the agency, and with considerably more access to information for all NMB staff, regardless of where they are working. In this regard, the NMB remains a government (and industry) leader.

In short, FY 2012 has been a good year in many ways for the National Mediation Board. Challenges remain—but watch this space in the next Annual Report to see how we successfully handled them in FY 2013.



**DANIEL RAINEY**  
Chief of Staff

# NATIONAL MEDIATION BOARD

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## MEDIATION AND ADR

LARRY GIBBONS,  
Director

### MANAGEMENT DISCUSSION & ANALYSIS

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The Office of Mediation and ADR Services (OMAS) manages mandatory Mediation of collective bargaining disputes pursuant to statutory authority under “Section 6” of the Railway Labor Act (RLA), which is applicable to both the airline and railroad industries. The ADR component of OMAS offers voluntary dispute resolution programs to the parties including facilitation, grievance mediation, training, and other dispute resolution efforts.

**NOTE** A complete list of acronyms is given at the back of this Annual Report.

# NATIONAL MEDIATION BOARD

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## MEDIATION OVERVIEW

### MANAGEMENT DISCUSSION & ANALYSIS

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The RLA requires labor and management to exert every reasonable effort to make and maintain collective bargaining agreements. Initially, the parties must give notice to each other of their proposals for new or revised agreements. Direct negotiation between the parties must commence promptly and continue in an effort to conclude a new collective bargaining agreement or to narrow their differences. Should parties fail to reach agreement during Direct Negotiations, either party or the parties jointly, may apply to the NMB for Mediation. Following receipt of an application, the NMB promptly assigns a mediator to assist the parties in reaching an agreement. [An application for NMB mediation services may be obtained from the Agency's web site at [www.nmb.gov](http://www.nmb.gov).]

The NMB is obligated under the Act to use its "best efforts" to bring about a peaceful resolution of the dispute. If such efforts do not settle the dispute, the NMB advises the parties and offers Interest Arbitration (proffers arbitration) as an alternative approach to resolving the remaining issues. If either party rejects this offer of binding arbitration, the NMB releases the parties from formal Mediation. This release triggers a thirty-day Cooling Off period, during which the Agency continues to work with the parties to achieve a consensual solution to the dispute. However, if an agreement is not reached by the end of the thirty-day period and the U.S. President does not establish an Emergency Board, the parties are free to exercise lawful self-help, which includes carrier-imposed working conditions or a strike by the union/organization.

For a flow-chart of Mediation procedures, see the Mediation section of the NMB website at [www.nmb.gov](http://www.nmb.gov). For more information on Emergency Boards, see the PEB section of this Annual Report.

# NATIONAL MEDIATION BOARD

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### MEDIATION HIGHLIGHTS

In FY 2012, while mediators continued to face difficult bargaining situations familiar from previous years, the merger of United Airlines and Continental Airlines and the bankruptcy of American Airlines provided more complex and challenging mediation circumstances. Settlements became more difficult as legacy air carriers continued to remake themselves through bankruptcies and mergers. Airline profits continued to be hard-earned but, profits of any size raise employee expectations at the bargaining table.

In national handling, where freight railroads bargain with unions as a group, the parties were unable to come to an agreement in the mediation process. This ultimately culminated in a release from mediation and in the establishment of a Presidential Emergency Board (PEB). The recommendations of the PEB became the basis for final settlements of all the cases.

Carriers and organizations, both air and rail, remained engaged in battles over higher wages and better benefits versus the ability to pay. Once again, mediation was increasingly important in assisting the parties to reach Collective Bargaining Agreements, and also more difficult, testing the skills of the mediator corps. Mediation cases docketed and closed in FY 2012 exceeded FY 2011 levels and the five-year docketed/closed averages.

#### EXPEDITED MEDIATION

The Board introduced Expedited Mediation as a trial program during FY 2011. The program allows, for cases that meet the necessary criteria, the assignment of mediatory resources for a short defined period of time for concentrated mediation in hopes of reaching a quick settlement. In Fiscal Year 2012, the Agency successfully used the test program with two groups, Hawaiian Airlines/Association of Flight Attendants (AFA) and United Airlines/AFA.

#### LEGACY CARRIERS

Mediation efforts with the Legacy Carriers continued to be complex and difficult, as noted above, due to the bankruptcy filing of American Airlines and the merger of United and Continental. Further complicating our efforts was an attempt by USAirways to merge with American Airlines. We were successful in assisting United in reaching agreements with its Flight Attendants (represented by AFA) and its mechanics (represented by the International Brotherhood of Teamsters—IBT). Additionally, an agreement in principle was reached on a combined contract between the pilots of United and Continental. At Continental, agreements were also reached with the Mechanics represented by the IBT, and at USAirways with the mechanics represented by International Association of Machinists—IAM.

#### COOLING-OFF PERIODS

The five Class I Railroads and thirty-two Short Line and Regional Railroads represented by the National Carrier's Conference Committee (NCCC) and eleven of their Unions were released from mediation in late FY 2011. Self-help was available in early FY 2012; however, President Obama named a Presidential Emergency Board, the actions of which helped lead to agreements in all cases.

#### SELF-HELP ACTIVITY

There was no self-help activity in FY 2012.

# NATIONAL MEDIATION BOARD

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### SETTLEMENTS

Several significant cases were settled in FY 2012 with assistance from NMB mediators, including: Omni Air/IBT, Air Wisconsin/IAM, PSA/AFA, CommutAir/Air Line Pilots Association (ALPA), and Southwest/Transport Workers Union (TWU). Significant rail cases that closed besides National Handling include: Still Water Central/United Transportation Union (UTU), Progressive Rail/UTU, Illinois Central/Brotherhood of Railroad Signalmen (BRS), Panhandle Northern Railroad/Brotherhood of Locomotive Engineers and Trainmen (BLET) and Wisconsin Central/BRS.

### PENDING CASES

Significant resources will continue to be devoted to open cases at the legacy airline carriers, which account for a significant portion of all cases in mediation. Concessions, bankruptcies, and mergers continue to solidify employee expectations of restoration or partial recovery of wages and benefits. Other airline cases in mediation include PSA/ALPA, Piedmont/ALPA & AFA, Spirit/AFA, Express Jet/IAM & IBT & TWU, Sun Country/ALPA & IBT and American Eagle/TWU (currently in bankruptcy).

On the rail side, the Commuter Railroads are entering another round of bargaining. Currently 30 percent of the open mediation cases involve Southeastern Pennsylvania Transportation Authority (SEPTA), Long Island Railroad and Metro North Railroad. AMTRAK is also in mediation with the UTU and the Passenger Rail Labor Bargaining Coalition (PRLBC—a coalition of several unions). Additionally, several Regional and Short Line Railroads are in mediation, including PAR/BLET, Illinois Central/UTU, Transportation Communications International Union (TCU) & Brotherhood of Maintenance of Way Employees (BMWED), Grand Trunk Western/BMWED & TCU, and the Ohio Central Locomotive Roster (OHCR)/BLET.

# NATIONAL MEDIATION BOARD

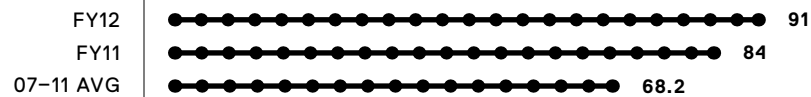
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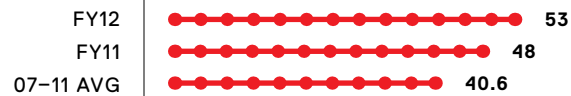
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## MEDIATION CASES

### START-PENDING



### NEW



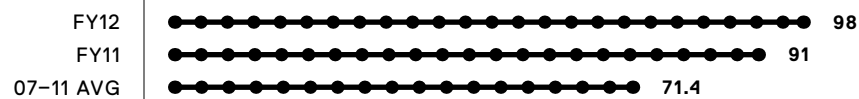
### SUM



### CLOSED



### END-PENDING



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## ADR OVERVIEW

In addition to statutory mediation and arbitration services under Sections 6 and 3 of the RLA, the NMB provides voluntary Alternative Dispute Resolution (ADR) services. ADR services include facilitation, training, grievance mediation, and an online dispute resolution (ODR) program, applying technology to the dispute resolution process.

The primary goal of the NMB's ADR program is to assist the parties in learning and applying more-effective, less-confrontational methods for resolving disputes. Another goal is to help the parties resolve more of their own disputes without outside intervention, and to use appropriate ODR technology to increase the efficiency and reduce the cost of dispute resolution efforts for the parties.

The NMB established its ADR Services program with the conviction that use of ADR and ODR methods would result in fewer cases progressing to statutory mediation, reduce and narrow the issues which the parties bring to mediation, and positively affect working relationships among the parties.

A complete description of and an application for ADR services may be found on the Agency's web site.



## ADR HIGHLIGHTS

Alternative Dispute Resolution Services (ADRS) continued to develop and deliver a wide range of services, including training (T cases), facilitation (F cases), grievance mediation (GM cases), facilitated problem solving (FPS) and Online Dispute Resolution (ODR).

During FY 2012, ADR Services continued to offer special training programs and facilitation efforts outside of traditional grievance mediation and facilitation work. The promotion of the use of ODR tools and training has greatly increased demands for ADR services such as Online Workspaces for the parties, Online Video Conferencing, and Pilot Programs in conjunction with the Office of Arbitration including online arbitrations and “submissions only” arbitrations.

ADR Services provided grievance mediation training and services that, again in FY 2012, aided in a reduction of the number of cases going to arbitration or the bargaining table. Partnering with the Office of Arbitration Services, ADR staff offered expedited Grievance Mediation and Arbitration processes designed to increase the use of online technology and move cases through the system quickly.

Also in FY 2012, NMB's online learning program, the Lyceum, was further developed and enhanced to offer online training to all parties. The NMB Lyceum allows any party, relevant practitioner, and the general public to access the training material at no cost and without having to use passwords or other identifying information. In collaboration with the Air Line Pilots Association, ADR staff produced a new Grievance Mediation video that shows a simulation of a grievance mediation session and provides training to all viewers on the NMB ADR process. The video will soon be accessible on the NMB Lyceum and accessible from the NMB website at [www.nmb.gov](http://www.nmb.gov).

### TRAINING

During FY 2012 ADR staff continued to refine and update standard training offered by the NMB, including Grievance Mediation, Facilitated Problem Solving and specialized training tailored to the parties' needs, such as Team Building and System Boards of Adjustment. In addition, special training in expedited mediation/arbitration processes was requested by the parties and delivered by NMB Mediation/ADR staff.

### GM FACILITATION AND NEGOTIATION

During FY 2012, the Mediation/ADR staff engaged in direct delivery of dispute resolution services as facilitators in Grievance Mediation, Interest-based Contract Negotiations, and as trainers in a variety of other programs.

A special effort was made to merge grievance mediation with expedited arbitration. Successful GM/expedited projects are ongoing at Wisconsin Central with the BLET, Union Pacific with the BLET, and Amtrak with the UTU and BLET. These cases help to reduce the number of grievances that would normally go to Arbitration.

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### ODR RESEARCH AND DEVELOPMENT

The NMB continued its exploration of online tools to assist mediators, arbitrators and NMB employees in general. Additional research and development in the area of social media and social networking is being analyzed for potential use in ADR development at the NMB.

During FY 2012, online tools were used in training, drafting of agreements, preparation for face-to-face negotiations, agenda setting, and online arbitration for a variety of carriers and organizations. Negotiating parties used comprehensive online workspaces provided by the NMB to manage preparation for negotiations, and to manage information during contract negotiations or grievance mediation. Carriers and organizations actively using NMB online workspaces include: AE/ALPA, CSXT/American Train Dispatchers Association (ATDA), CSXT/UTU, World/IBT, Omni Air/IBT, and Air Wisconsin/IAMAW.

### ONLINE ARBITRATION

The NMB continued to develop and use its web-based video and document sharing capabilities. Virtually all executive sessions during FY 2012 for the NRAB were held using ODR technology.

### PARTNERSHIPS

In partnership with Dominican University and Cornell University, the ADR staff designed and delivered a number of trainings and presentations that provided quality training and complemented the employees/students career development. The partnerships have successfully created a shared value for all participants by making high quality training available to NMB employees at no charge to the agency.

In addition to training programs, these partnerships have provided analyses, evaluations and feedback to assist the NMB in strengthening grievance mediation promotion to railroads and their respective unions. Finally, the partnership arrangements have enhanced the NMB's internship Program.

# NATIONAL MEDIATION BOARD

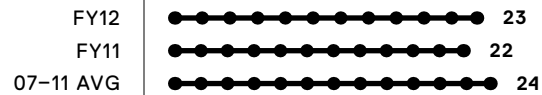
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## ADR CASES

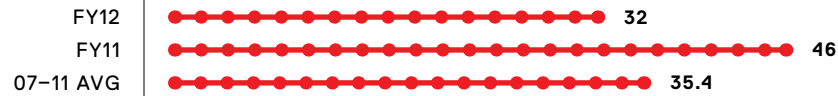
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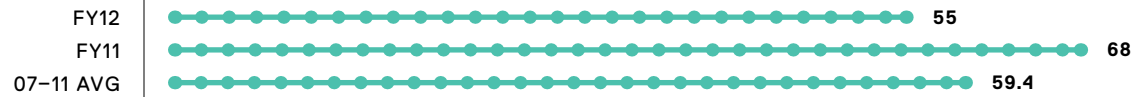
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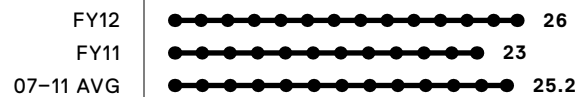
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#### END-PENDING



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## ARBITRATION

ROLAND WATKINS,  
Director

The Office of Arbitration Services manages arbitration of grievance disputes over existing collective bargaining agreements per statutory authority under “Section 3” of the Railway Labor Act (RLA). The RLA provides for both Grievance Arbitration and Interest Arbitration in the airline and railroad industries.

ARB

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**NOTE** A complete list of acronyms is given at the back of this Annual Report.

## ARBITRATION OVERVIEW

### GRIEVANCE ARBITRATION

Grievance Arbitration is a process for resolving disputes regarding the interpretation or application of an existing collective bargaining agreement. Grievances, known as “minor disputes” under the RLA, must be handled through Grievance Arbitration if not otherwise resolved, and cannot be used by the parties to trigger self-help actions.

The NMB has significant administrative responsibilities for the three types of grievance arbitration in the railroad industry. These types include those of the National Railroad Adjustment Board as well as arbitration panels established directly by the labor-management parties at each railroad: Public Law Boards and Special Boards of Adjustment. Grievance Arbitration in the airline industry is accomplished at the various System Boards of Adjustment created jointly by labor and management at the parties’ expense.

The NMB furnishes panels of prospective arbitrators for the parties’ selection in both the airline and railroad industries. [A request to be placed on the NMB Roster of Arbitrators may be obtained from the Board’s web site at [www.nmb.gov](http://www.nmb.gov). See Forms on the Documents page.] The NMB also has substantial financial responsibilities for railroad arbitration proceedings in that it pays the salaries and travel expenses of the arbitrators. Grievance Arbitration decisions under the RLA are final and binding with very limited grounds for judicial review.

### INTEREST ARBITRATION

Interest Arbitration is a process to establish the terms of a new or modified collective bargaining agreement through arbitration, rather than through negotiations. Although the RLA provides an effective process for Interest Arbitration, its use is not statutorily required.

The NMB offers the parties the opportunity to use binding Interest Arbitration when the Agency has determined that further Mediation efforts will not be successful. In addition, the parties may directly agree to resolve their collective bargaining dispute or portions of their dispute through Interest Arbitration.

The NMB generally provides the parties with panels of potential arbitrators from which they select an individual to resolve their dispute; in some instances however, the parties agree to allow the NMB to directly appoint an arbitrator. Interest Arbitration decisions are final and binding with very narrow grounds for judicial appeal.

## ARBITRATION HIGHLIGHTS

The Office of Arbitration Services directed its attention to promoting a more efficient Section-3 process, thereby fostering faster resolution of minor disputes (grievances). The NMB made a well-received move in this regard during FY 2012 by targeting the backlog of grievance arbitration cases for resolution, increasing the number of arbitrators available to hear and decide cases and introducing more technology to the administrative processing of cases with its arbitrators. Grievance Mediation was also actively promoted and successfully utilized as an alternative to arbitration. The 2,084 cases pending at the end of FY 2012 is the lowest in NMB history: 300 less cases than last year.

The NMB Arbitration program increased its efforts to modernize the processing of minor disputes. The agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. In January 2012, the NMB additionally introduced Arbitrators Workspace. The Arbitrators Workspace is a web based information system which gives each arbitrator online access to their case information. This system is used by the arbitrators to request work and submit requests for compensation for work. The Arbitrators Workspace replaced numerous hard-copy forms. The use of online dispute resolution was also successfully promoted at the National Railroad Adjustment Board (NRAB).

The level of grievance activity handled through the NMB Arbitration program decreased as compared to the activity in FY 2011. During FY 2012, the parties brought 3,569 cases to arbitration compared to 3,908 cases in FY 2011. In FY 2012, 3,869 cases were closed compared to 4,294 in FY 2011, leaving only 2,084 cases pending at the end of FY 2012. This decrease is partly attributable to the successful use of grievance mediation as an alternative means for resolving grievances.

On several occasions during the fiscal year, the Agency met with representatives from the labor organizations and carriers to review its caseload. Carriers included Canadian National Railroad, Norfolk Southern Corporation, Union Pacific Railroad, Burlington Northern Santa Fe, Kansas City Southern Railway and CSX Transportation. The Office of Arbitration Services met with all labor organizations representing employees in the railroad industry. NMB efforts have been directed to facilitating a more efficient Section 3 process under the Railway Labor Act (RLA), thereby reducing the backlog of cases and furthering the RLA objective of prompt resolution of minor disputes.

The NMB continued its efforts designed to improve the arbitration of grievances under Section 3 of the Railway Labor Act. The Board had five goals for this transformation: (1) to ensure that the parties receive timely and outstanding arbitration services from the Board's staff and contract arbitrators; (2) to ensure the use of e-business capabilities to the maximum extent possible; (3) to ensure that Board procedures are improved through a rulemaking process involving public input; (4) to ensure that arbitrators schedule, hear, and decide cases in a timely manner; and (5) to ensure that NMB resources are used wisely and in accordance with Federal regulations and sound accounting practices.

## ANNUAL CASE AUDIT

In March 2012, the NMB conducted an intensive audit of all cases pending before the NRAB. The results of the audit allowed the NMB to update the status of its cases pending before the NRAB.

In June 2012, the NMB conducted an intensive audit of all cases pending before Public Law Boards and Special Boards of Adjustment. The Agency provided the Class I freight railroads, commuter railroads, regional railroads and all labor organizations representing railroad employees with a list of cases pending on these boards. The feedback from the audit enhanced the accuracy of the NMB case management system.

## GRIEVANCE MEDIATION

The NMB actively promoted grievance mediation as an alternative means of dealing with grievances in the railroad industry by reaching out to the largest Class I freight carriers and the labor organizations. During FY 2012, Arbitration Services made presentations at a meeting of the Class I freight railroads, the United Transportation Union, the IAM&AW and the Sheet Metal Workers International promoting grievance mediation as a means of resolving disputes. The NMB anticipates continuing this initiative during FY 2013.

## ARBITRATOR PRODUCTIVITY

The NMB continued its efforts to increase arbitrator productivity through rigorous enforcement of the six-month rule. Arbitrators who have not issued a decision within six months of a hearing are contacted monthly and encouraged to issue those decisions. Approximately 93% of all decisions are rendered within six months of the hearing. During FY 2013, the NMB will require that arbitrators render decisions within three months of a hearing.

## AGENCY TRANSPARENCY

The Agency improved its already successful program of using the NMB website as a source for many of the forms and documents needed by arbitrators and the parties. The NMB used the website to keep the parties and the public informed regarding Section 3 activities. Arbitrators, parties, and the public use the website to obtain information and forms instantaneously. The agency developed an Arbitrators Caseload Report and posted a link to the Report on the NMB website. The report shows by arbitrator, grievance cases of railroad employees the parties have chosen to pursue. It also indicates whether a case is late (i.e., a decision has not been rendered within 6 months of when a case was heard by the arbitrator). The Arbitrators Caseload Report is real-time in that it has a direct link to an NMB database reflecting updates as they are made by Arbitration Services staff. The availability of information on the website reduces the staff time which ordinarily would be required to respond to questions and requests. The NMB has also placed an NMB NRAB Open Case Report on the website. This report lists all of the open cases at the NRAB. With this report and the Arbitrators Caseload Report, the NMB's entire Section 3 caseload is on the NMB website ([www.nmb.gov](http://www.nmb.gov)).

## AGE OF CASES

In March 2012, the Board commenced a review of all open cases on Public Law Boards (PLBs) and Special Boards of Adjustment (SBAs) which were three years and older. In previous years, the NMB reviewed cases five years and older. The Board worked with the parties to obtain the status of the cases and to encourage the parties to either settle the cases or schedule the cases for hearing. As a result, the Board was able to close the overwhelming majority of these cases and have the remaining few scheduled for hearings. With the exception of the few scheduled for hearings, the Board was able to clear its records of all cases over three years.

The Board also contacted the NRAB to obtain the status of their cases over three years. This project is ongoing and will lead to a reduction of the old cases at the NRAB in fiscal year 2013.

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## PAY PER CASE PROJECT

The NMB expanded a project in which arbitrators were paid on a per-case basis, instead of the normal per-day compensation. The project will be evaluated during the next fiscal year.

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## BACKLOG OF CASES

The National Mediation Board used an increase in Section 3 funding to further reduce the backlog of cases. The NMB defines the administrative backlog as all cases over two years. At the end of FY 2012, 80% of the pending cases were less than two years.

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## USE OF TECHNOLOGY

The NMB further expanded its use of technology at the NRAB. All NRAB awards are entered into the Knowledge Store at the same time that they are distributed to the parties. Parties have been trained to and now enter awards into the Knowledge Store. In some instances, valid awards are entered within 24 hours of completion.



# NATIONAL MEDIATION BOARD

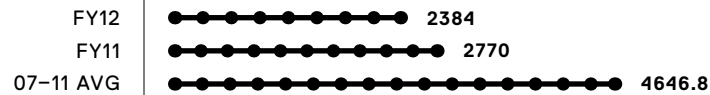
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## ARBITRATION CASES

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#### START-PENDING



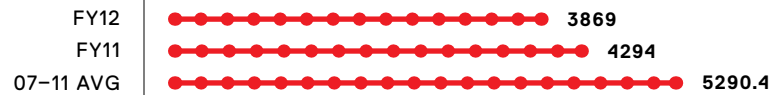
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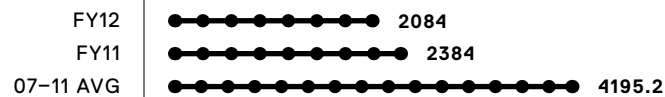
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#### END-PENDING



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## ADMINISTRATION

**JUNE D.W. KING,**  
Director

A  
D  
M

The Office of Administration facilitates NMB achievement of internal strategic goals and government-wide initiatives.

# NATIONAL MEDIATION BOARD

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## MANAGEMENT DISCUSSION & ANALYSIS

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## ADMINISTRATION OVERVIEW

The Office of Administration (OA) provides operational management, leadership and support for the entire agency. These services include: strategic planning and budgeting; accounting and finance; human resources management; procurement and contracting; information technology management and telecommunications; property and space management; and office support.

## ADMINISTRATION HIGHLIGHTS

### HUMAN CAPITAL

The NMB's Human Capital Management Report provides a vehicle for ensuring that established objectives are assessed and reported on, accomplished objectives are noted, and that future goals are tracked for continuous improvement. The FY 2012 results will be used to make improvements in the human resources arena.

As the NMB moves to take advantage of online services in the personnel arena, the agency is becoming more efficient and effective, the results of which can be seen in the agency the hiring process. For internal posting, the NMB hires an employee within 30 days. In the cases of delegated examining positions, the NMB continues to show movement toward the 80 day standard.

The NMB continues to use the E-verify system to ensure that all new appointees are eligible to work. In addition, three individual surveys are conducted for all new hires to assess their work experience. The results help to improve the training and orientation process for not only the new hires but also as a refresher for our current staff.

### INFORMATION TECHNOLOGY

In accordance with the NMB's Capital Planning Plan, the NMB will be reviewing options for its information technology equipment while moving toward cloud computing. The NMB is in the process of implementing various aspects of "cloud" computing to better utilize its resources. During our movement to the cloud, the NMB Corporate Memory and Knowledge Store will also be moved to a cloud platform consistent with government requirements.

### CONTINUITY OF OPERATIONS

The NMB participated in the Eagle Horizon 2012 National Level Exercise which included a cyber-security incident. The exercise tested our ability to perform essential functions during a security incident. This test also allowed us to verify some aspects of our cloud computing. Participation in Eagle Horizon 2012 demonstrated that the cloud computing initiatives currently in the testing phase are more than adequate to meet the needs of the agency in an emergency situation. Once fully tested, the COOP plan will be updated.

### FINANCIAL PERFORMANCE

The NMB's accounting system, GLOWS, meets all current financial requirements. This system enables the agency to close its monthly financial records within one business day. The agency's budget is spread out among three program areas which are consistent with the agency's strategic and performance goals. The costs for all the other departments within the agency are accounted for separately in the accounting system to further provide detail accounting of program costs. The NMB is entering an agreement with the Bureau of Public Debt (BPD) to improve our financial

reporting and processing by moving to a newer and more robust online platform, managed for the NMB under contract by BPD. This agreement will place at our finger tips, up-to-data financial information that can be used to make efficient financial decisions.

The Office of Administration provides budget planning, budget development, and oversight of budget execution. In addition, OA is responsible for the maintenance of the Agency's core accounting system; financial reporting to the Office of Management and Budget (OMB) and Treasury; payments to vendors for goods and services received; issuing bills; and the preparation of the Agency's financial statements which are audited on an annual basis.

The NMB continues to work with an outside firm to audit its financial statements. For the fifteenth consecutive year, Allmond & Company reported that the financial statements were presented fairly, in all material respects, and in conformity with U.S. generally accepted accounting principles (GAAP) for Federal agencies. The FY 2012 audit report is included in this NMB Performance and Accountability Report which is posted on the agency's website at [www.nmb.gov](http://www.nmb.gov). The material weakness identified in last year's report is being addressed by establishing new processes and procedures that will guide the arbitration process.

## PROCUREMENT

As part of the small agency council, the NMB is working to ensure that its procurement functions meet all of the new requirements for procurement certification. The agreement with BPD provides an automatic system which will provide electronic processing of request to award.

## TRAVEL

With seven (7) percent of the NMB budget attributable to travel, the agency continues to review opportunities to reduce costs. We are moving to the on-line travel agent under the GSA contract. This process reduces the per ticket cost which can reduce overall travel costs in the long run. This system will also provide an electronic process for authorization, vouchers, and reimbursement.

## ELECTRONIC GOVERNMENT

The agency provides electronic access to all its policies. This allows our internal customers to have quick access to them. The NMB continues to use its website to provide information to its internal and external customers. The website provides access to our internal customers by allowing them to access the internal NMB forms. Also the website and our online Knowledge Store provide current and historical information to the public and our external customers.

## NMB CORPORATE MEMORY

In FY 2012, the NMB continued to refine its records and document management program, improving the search engine and further integrating the records database with the agency case management system.

## NMB KNOWLEDGE STORE

The NMB staff continued to build and improve the public archive of information available through the NMB Knowledge Store. Currently, the NMB Knowledge Store contains over 100,000 documents in an easily searchable format, including arbitration awards, representation decisions, annual reports, PEB reports, and collective bargaining contracts. During FY 2012, the NMB developed a new Knowledge Store interface that speeds recovery of documents and frees the data to reside in the new cloud environment being created by the agency.

# NATIONAL MEDIATION BOARD

ANNUAL PERFORMANCE  
AND ACCOUNTABILITY  
REPORT FY2012

## MANAGEMENT DISCUSSION & ANALYSIS

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## PERFORMANCE PLAN AND RESULTS (GPRA)

This report contains FY 2012 accomplishments of the National Mediation Board relating to goals and objectives for Mediation, Alternative Dispute Resolution, Representation, and Arbitration. These accomplishments enabled the NMB to meet its statutory obligations and provide services to its airline and railroad labor, management and public customers.

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**NOTE** A complete list of acronyms is given at the back of this Annual Report.

GPRA

## PERFORMANCE AND GOALS

### STRATEGIC PLAN GENERAL GOAL 1

#### Mediation and Alternative Dispute Resolution

**Mediation and Alternative Dispute Resolution (ADR) will continue to foster the prompt and peaceful resolution of collective bargaining disputes in the airline and railroad industries.**

#### MEDIATION/ADR

**I** Continue to develop standard training for mediators to ensure they are kept abreast of the latest trends in mediation and gain additional industry and technical knowledge in both air and rail.

**FY 2012 ACCOMPLISHMENT:** Through the use of Individual Development plans each mediator participated in training and development that met their individual needs. In addition, training covering industry specific topics, and guest speakers, was conducted during the bi-monthly mediator meetings.

**II** Better track the history of cases. Work with Arbitration and Representation to revise and improve the agency case management system.

**FY 2012 ACCOMPLISHMENT:** We continued to fine tune the capabilities of and information tracked in the case management system. New specialty reports to help in workload planning and historical research were developed and used.

**III** Expand ADR capabilities to address the changing labor environment in the airline and railroad industries and provide more varied assistance in dispute resolution both in-between and during contract negotiations.

**A.** Use outreach and promotion efforts to raise the visibility of the ADR program. Continue to utilize partnerships with institutions of higher learning to improve and expand ADR Services.

**FY 2012 ACCOMPLISHMENTS:** ADR continued to engage in outreach and promotion efforts with parties in the airline and railroad industries. The result of these efforts was a continued case-load requiring special dispute resolution efforts, and ADR/ODR presentations to carriers, organizations, and professional associations. Special concentration was given to local leadership at the railroads and rail organizations with grievance mediation overviews and presentations given to those who handle the lion's share of grievance handling. During FY2012, marketing students in the graduate school of Dominican University did an analysis of the NMB's grievance mediation program and presented plans for increasing the use of GM in the railroad sector. Those recommendations will be used in FY2013 to expand the use of GM.

**B.** Review ADR services for potential deletions, additions, or changes.

**FY 2012 ACCOMPLISHMENTS:** Each year ADR Services reviews its programs, assessing existing training and service delivery. The NMB expanded the Lyceum, an online learning resource that helps reduce travel costs for GM training. Working with Arbitration, ADR staff increased its promotion of expedited arbitration coupled with grievance mediation as an option for the parties.

STRATEGIC PLAN  
GENERAL GOAL 2  
Representation

IV

Pursue interagency projects, including personnel exchange programs, to enhance labor-management relations throughout the airline and railroad industries.

**FY 2012 ACCOMPLISHMENTS:** ADR Services continued to actively participate in the Interagency ADR Working Group to promote ADR in government. As a part of this effort, ADR Services provided training to other government agencies such as the Federal Maritime Commission.

V

Engage in outreach and education programs to ensure that the NMB is seen as a world leader in airline and railroad labor-management issues and submit proposals for presentations at dispute resolution conferences.

**FY 2012 ACCOMPLISHMENTS:** ADR staff members were involved in presentations to: the Association for Conflict Resolution, the Dispute Resolution Section of the American Bar Association, the Interagency Dispute Resolution Working Group Steering Committee, American Law Institute and American Bar Association (ALI-ABA), the International Online Dispute Resolution Forum, and numerous other dispute resolution and legal organizations.

**The Office of Legal Affairs (OLA) will promptly investigate representation disputes and definitively resolve representation status for collective bargaining purposes, using the most efficient and client-friendly methods available.**

I

Expand the use of electronic systems to further streamline and reduce cost; continue to integrate Representation data into the agency Corporate Memory; and work with ADR to implement electronic filing for OLA.

**FY 2012 ACCOMPLISHMENT:** OLA primarily accepts electronic submissions in representation cases. The Office of Legal Affairs continued to reduce its use of paper documents by implementing a test program to take electronic witness statements in representation interference investigations.

II

Develop outreach opportunities in the legal, labor relations and alternative dispute resolution communities. Submit proposals for participation in conferences sponsored by the American Bar Association (ABA). Develop appropriate CLE and other training opportunities for RLA practitioners.

**FY 2012 ACCOMPLISHMENT:** OLA attorneys helped plan the agenda for the ABA Railroad and Airline Labor Law Section's Mid-winter meeting; planned and participated in the ABA's Labor and Employment Annual CLE Meeting; and contributed to a three day Continuing Legal Education seminar on the Railway Labor Act sponsored by ALI-CLE.

III

Implement and maintain concise, relevant reference materials and make them readily available to the public, thereby reducing the number of work-hours used to research and respond to inquiries; update and improve the material available on the NMB web site; and revise NMB's Representation Manual.

**FY 2012 ACCOMPLISHMENT:** OLA attorneys completed working on the 3rd Edition of the authoritative treatise on Railway Labor Act Law published by the Bureau of National Affairs. OLA attorneys began work on a "pocket part" supplement updating the treatise.

## STRATEGIC PLAN GENERAL GOAL 3

### Arbitration

IV

Maintain continuous industry and agency communication at a level that provides early preparation for Presidential Emergency Board management, and coordinate efforts with the Office of Mediation and ADR Services to identify potential disruptions which may lead to a Presidential Emergency Board.

**FY 2012 ACCOMPLISHMENT:** The Office of Legal Affairs continually coordinates with the Office of Mediation and ADR Services to evaluate potential disruptions in the industry. OLA attorneys served as counsel to PEB 243.

**Arbitration will promote the prompt and orderly resolution of grievance disputes in the railroad and airline industries.**

I

Modernize and update procedures related to NRAB Section-3 cases and other arbitral forums (public law boards and system boards of adjustment). Conduct a business process review of NRAB case handling.

**FY 2012 ACCOMPLISHMENT:** An audit was conducted of the NRAB administrative caseload processes, and procedures governing public law boards and system boards of adjustments were reviewed with the goal of streamlining procedures.

II

Foster a “best practices” approach to managing the contract-arbitrator roster. Move arbitrator roster information to a new case management system. Improve the guidelines for accepting applicants to the roster.

**FY 2012 ACCOMPLISHMENT:** The NMB instituted a project to improve the NMB Roster of Arbitrators. An NMB Arbitrators Caseload Report was updated on the NMB website, along with the official Roster of Arbitrators.

III

Foster a “best practices” approach to managing arbitrator billing and payment. Investigate and develop a more equitable and efficient arbitrator billing process.

**FY 2012 ACCOMPLISHMENT:** The NMB initiated and implemented several special compensation projects, establishing more boards in which arbitrators were paid on a per-case basis and increasing compensation for cases heard online. These projects will be evaluated in FY 2013. NMB also implemented the Arbitrators Workspace which improved the billing and payment process.

IV

Integrate current technology into the arbitration process. Continue to integrate Arbitration business processes into the NMB Corporate Memory program. Cooperate with Mediation/ADR and Representation to improve the agency case-management system. Continue to encourage the parties to use the agency’s web-based video-conferencing system to reduce costs for arbitration hearings and adoption conferences.

**FY 2012 ACCOMPLISHMENT:** The NMB trained several arbitrators, railroad management officials and labor officials in the use of Online Video Conferencing, and several hearings were conducted using OVC during Fiscal Year 2012. The NMB also conducted a webinar using two well-known railroad arbitrators.